

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

FINANCIAL GUARANTY INSURANCE
COMPANY

Plaintiff

v.

ALEJANDRO GARCÍA PADILLA, JUAN C.
ZARAGOZA GÓMEZ, INGRID RIVERA
ROCAFORT, MELBA ACOSTA FEBO, LUIS
F. CRUZ BATISTA, VICTOR A. SUAREZ
MELÉNDEZ, CÉSAR A. MIRANDA
RODRÍGUEZ, JUAN FLORES GALARZA,
AND JOHN DOES 1-40

Defendants

CIVIL NO. 16-1095 (JAF)

MOTION FOR JOINDER AS TO DOC. DK. NO. 37 AND TO DISMISS

TO THE HONORABLE COURT:

COMES NOW co-defendant, Ingrid Rivera Rocafort (“Ingrid Rivera”), in her official capacity and in a special appearance and without submitting to the jurisdiction of this Court, through the undersigned attorney, who respectfully STATES and PRAYS:

1. The Complaint in this case was filed on January 19th, 2016 seeking declaratory and injunctive relief and to enter judgment declaring unconstitutional two executive orders issued by the Governor of Puerto Rico on November 30th and December 8th, 2015, the Constitutional Debt Priority Provision and the OMB Act.

2. Plaintiff sued the appearing co-defendant in her official capacity as Executive Director of Puerto Rico Tourism Company; see the sole allegation made against co-defendant Ingrid Rivera in paragraph 13, Doc. Dk. 1.

3. We submit that plaintiff's claims lack federal jurisdiction to be entertained by this Honorable Court. To that effect the co- defendants filed today a Motion to Dismiss, see Doc. Dk. No.37 The appearing co- defendant hereby repeats and adopts the arguments, statements and allegations made in said motion and joins said co-defendants in their request for dismissal and the rest of the remedies expressed therein.

4. We hereby submit that this Complaint against Ingrid Rivera should be dismissed since she is entitled to Eleventh Amendment immunity as an officer of the Puerto Rico Tourism Company, an arm of the state, In re San Juan Dupont Plaza Hotel Fire Litig., 888 F.2d 940, 944 (1st Cir. 1989) (“...we affirm the lower court's finding that the Tourism Company is an arm of the Commonwealth and, as such, is entitled to Eleventh Amendment immunity.”). Therefore, this suit against her is barred.

5. In the alternative, this case should also be dismissed because there are no factual allegations in the Complaint to state a plausible claim for relief as to Ingrid Rivera in her official capacity, Ashcroft v. Iqbal, 550 U.S. 544 (2007), Sanchez v. Pereira Castillo, 590 F. 3d 31, 48 (1st Cir.2009). That sole allegation in paragraph 13 against Ingrid Rivera contains no adequate factual or non-conclusory allegations to maintain a claim against her in her official capacity.

6. In view of the above, Plaintiff 's complaint against Ingrid Rivera in her official capacity as Executive Director of the Puerto Rico Tourism Company should be dismissed with prejudice since she is entitled to immunity.

WHEREFORE, it is respectfully requested from this Honorable Court to allow the appearing co-defendant to join the request for dismissal Doc. Dk. No. 37, grant the remedies requested in that motion and also dismiss the Complaint as to Ingrid Rivera with prejudice.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10th day of February, 2016.

CERTIFICATE OF SERVICE

I hereby certify that on this same date, I electronically filed the foregoing with the Clerk of the Court Using CM/ECF system which will send notification of such filing to all attorneys of record.

/s/Ivonne Cruz Serrano
IVONNE CRUZ SERRANO
USDC-PR No. 202206
Attorney for Co-Defendant Ingrid Rivera

MAYMI, RIVERA LLC
PO Box 11897
San Juan, Puerto Rico 00922
Tel: (787) 474-0070
Fax: (787) 474-0071
icruz@maymirivera.com